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Corbin Davis, Esq.
Michigan Supreme Court
Clerk of the Court
PO Box 30052
Lansing, MI 48909

re: ADM 2010-22 - MRPC 7.3

Dear Mr. Davis:

While I am an Officer of the Family Law Council, and have been actively involved in addressing the serious arising occasioned by attorney "trolling", I am speaking in my own individual behalf, and not on behalf of Council.

I wish to address the specifics comments on Mr. Allen, which were posted on March 1, 2012 — the very last day of the Comment Period regarding ADM 2010-22. The narrow window of opportunity necessarily abbreviates what would otherwise be a meticulous rebuttal.

1. With all due respect to Mr. Allen, his correspondence is devoid of any professional history of ever having handling a Family Law case in general or a high conflict divorce case in particular. The problem of attorney trolling is widespread and serious. The Supreme Court would be well advised to carefully consider the other correspondences, condemning this practice, from those of us who practice and toil in the contested divorce arena — which I have done for 38 years.

2. The Family Law Section specifically limited the proposal to "Family Law" cases because family law cases are unique; and the harm to clients and children is unique. Families going through a divorce crisis are unique, and the proposed amendment to MRPC 7.3 was carefully tailored to address this specific and unique problem.

3. The suggestion of a "per se" offense, without regard to "intent" is not a reason to reject the Amendment. Attorneys are held to know what the MRPCs are. This is an "educational" issue, and not a valid reason to reject the proposal.

4. The "if you do this, it must lead to that" is a logical *non-sequitur*. There is no *slippery slope* associated with this proposal. The Supreme Court is well able to judge the particular merits of a Rule Amendment on a case by case basis.

5. The suggestion that the almost unanimous support from an overwhelming majority of proponents of the Rule Amendment must be ignored until some empirical study is conducted is simple obstruction. The fact that the Florida Bar conducted a study, prior to approval by the United States Supreme Court, does not require to go backwards in time and ignore the Supreme Court's approval of attorney restrictions until and unless a statewide study is conducted.

6. The least restrictive, most cost effective, and the most carefully targeted solution is in fact a 14 day non solicitation period. Inviting Court Clerks to expend additional resources on a case by case, of broad brush approach is not fiscally responsible. In the event that at some point all Family Law cases are held to be "confidential" then this broader solution may address the problem and eliminate the pressing need today. However, "sealing" all Family Law cases is considerably more restrictive, and more costly, than this narrow restrictions which addresses attorney behavior — which is the problem.

7. The objections dealing with "the non-filing party being the evil doer" and "our only tool is a hammer" may make sense to Mr. Allen, but I don't understand what he is talking about, and I certainly have never run into this problem in 39 years of legal practice. These gossamer objections would apply to every proposed Rule modifications ever submitted.

The Family Law Section and the Family Law Council have worked long and hard for three to four years on this proposal — a proposal which was approved by the State Bar of Michigan Representative Assembly. Kindly consider the widespread support of the Family Law attorneys who support the proposal, and have submitted examples from their own professional experience.

Very truly yours,

James J. Harrington III

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